In the Matter of the Publication and Distribution

of the

Hawai'i Pattern Jury Instructions - Crimina

ORDER APPROVING PUBLICATION AND DISTRIBUTION OF HAWAI'I PATTERN JURY INSTRUCTIONS - CRIMINAL (By: Moon, C.J., for the court)

Upon consideration of the Pattern Criminal Jury
Instructions Standing Committee's request to publish and
distribute revisions and corrections to Criminal Instructions
13.56, 13.56A, 13.57, and 13.57A to the Hawai'i Pattern Jury
Instructions - Criminal,

IT IS HEREBY ORDERED, that the attached criminal jury instructions 13.56, 13.56A, 13.57, and 13.57A are approved for publication and distribution.

IT IS FURTHER ORDERED that this approval for publication and distribution is not and shall not be considered by this court or any other court to be an approval or judgment as to the validity or correctness of the substance of any instruction.

DATED: Honolulu, Hawai'i, August 14, 2007.

FOR THE COURT:

Chief Justice

¹ Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

13.56 UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT--UNDER AGE 16 AND PRESENT: H.R.S. § Section 712-1240.5(1)

If you find that the prosecution proved the Offense of (name of the manufacturing charge) [in Count _____] beyond a reasonable doubt, then you must answer the following three questions on a special interrogatory which will be provided to you:

- 1. Did the Prosecution prove beyond a reasonable doubt that at any time during the commission of the offense a child under the age of sixteen was present in the structure where the offense occurred?
- 2. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?
- 3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure where the offense occurred was under the age of sixteen?

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

Notes

H.R.S. § $712 - \frac{1249.5(1)}{1240.5(1)}$.

For definitions of states of mind, see instruction: 6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 712, see

instruction:

13.56 UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT--UNDER AGE 16 AND PRESENT: H.R.S. § Section 712-1240.5(1)

If you find that the prosecution proved the Offense of <u>(name of the manufacturing charge)</u> [in Count _____] beyond a reasonable doubt, then you must answer the following three questions on a special interrogatory which will be provided to you:

- 1. Did the Prosecution prove beyond a reasonable doubt that at any time during the commission of the offense a child under the age of sixteen was present in the structure where the offense occurred?
- 2. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?
- 3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure where the offense occurred was under the age of sixteen?

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

Notes

H.R.S. § 712-1240.5(1).

For definitions of states of mind, see instruction: 6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 712, see

instruction:
 13.00--"manufacture"

13.56A	UNLAWFUL MANUFACTURING OF A CHILD PRESENT-SPECIAL INTERREPRESENT: H.R.S. § 712-1240.5	OGATORYUNDER AGE 16 AND
1.	Did the Prosecution prove be that at any time during the child under the age of sixte structure where the offense	commission of the offense a en was present in the
	Yes	No
2.	Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?	
	Yes	No
3.	Did the Prosecution prove bedoubt that the Defendant knew commission of the offense the structure where the offense of sixteen?	w at any time during the at the child who was in the
	Yes	No

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

Notes

H.R.S. § $712 - \frac{1249.5(1)}{1240.5(1)}$.

For definitions of states of mind, see instruction: 6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 712, see instruction:

13.56A	UNLAWFUL MANUFACTURING OF A COCHILD PRESENT-SPECIAL INTERROG PRESENT: H.R.S. § 712-1240.5(1	ATORYUNDER AGE 16 AND
1.	Did the Prosecution prove beyond a reasonable doubt that at any time during the commission of the offense child under the age of sixteen was present in the structure where the offense occurred?	
	Yes	No
2.	Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present the structure where the offense occurred?	
	Yes	No
3.	Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in structure where the offense occurred was under the of sixteen?	
	Yes	No

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

Notes

H.R.S. § 712-1240.5(1).

For definitions of states of mind, see instruction: 6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 712, see instruction:

13.57 UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT--UNDER AGE 18 AND CAUSES SUBSTANTIAL OR SERIOUS BODILY INJURY:

H.R.S. § 712-1240.5(2)

If you find that the prosecution proved the Offense of (name of the manufacturing charge [in Count _____] beyond a reasonable doubt, then you must answer the following four questions on a special interrogatory which will be provided to you:

- 1. Did the Prosecution prove beyond a reasonable doubt that any time during the commission of the offense a child under the age of eighteen was present in the structure where the offense occurred?
- 2. Did the Prosecution proved beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?
- 3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure was under the age of eighteen?
- 4. Did the Prosecution prove beyond a reasonable doubt that the Defendant knowingly caused serious or substantial bodily injury to that child as a result of committing the offense of manufacturing a controlled substance?

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

Notes

H.R.S. § $712 - \frac{1249.5(2)}{1240.5(2)}$.

For definitions of states of mind, see instruction: 6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 707, see instructions:

- 9.00--"serious bodily injury"
- 9.00--"substantial bodily injury"

For definition of terms defined by H.R.S. Chapter 712, see instruction:

13.57 UNLAWFUL MANUFACTURING OF A CONTROLLED SUBSTANCE WITH A CHILD PRESENT--UNDER AGE 18 AND CAUSES SUBSTANTIAL OR SERIOUS BODILY INJURY:

H.R.S. § 712-1240.5(2)

If you find that the prosecution proved the Offense of (name of the manufacturing charge) [in Count _____] beyond a reasonable doubt, then you must answer the following four questions on a special interrogatory which will be provided to you:

- 1. Did the Prosecution prove beyond a reasonable doubt that any time during the commission of the offense a child under the age of eighteen was present in the structure where the offense occurred?
- 2. Did the Prosecution proved beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child was present in the structure where the offense occurred?
- 3. Did the Prosecution prove beyond a reasonable doubt that the Defendant knew at any time during the commission of the offense that the child who was in the structure was under the age of eighteen?
- 4. Did the Prosecution prove beyond a reasonable doubt that the Defendant knowingly caused serious or substantial bodily injury to that child as a result of committing the offense of manufacturing a controlled substance?

You must answer each of these questions separately. Your answer to each question must be unanimous.

"Structure" means any house, apartment building, shop, warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

Notes

H.R.S. § 712-1240.5(2).

For definitions of states of mind, see instruction: 6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 707, see instructions:

- 9.00--"serious bodily injury"
- 9.00--"substantial bodily injury"

For definition of terms defined by H.R.S. Chapter 712, see instruction:

13.57A	CHILD PRESENT-SPECIAL	OF A CONTROLLED SUBSTANT INTERROGATORYUNDER AGING SERIOUS BODILY INJURY:	
unde	any time during the co	rove beyond a reasonable ommission of the offense was present in the struct	a child
	Yes	No	
2.	doubt that the Defenda	rove beyond a reasonable ant knew at any time during the child was part of the child was presented the child was presented the child was presented to the ch	ing the present in
	Yes	No	
3.	doubt that the Defenda	rove beyond a reasonable ant knew at any time duranse that the child who we age of	ing the was in the
	Yes	No	
4.	doubt that the Defenda substantial bodily inj	rove beyond a reasonable int knowingly caused ser ury to that child as a contract of manufacturing a contract.	result of
	Vog	No	

You must answer each of the questions separately. Your answer to each of these questions must be unanimous.

"Structure" means any house, apartment building, shop,

warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

Notes

H.R.S. § $712 - \frac{1249.5(2)}{1240.5(2)}$.

For definitions of states of mind, see instruction: 6.03--"knowingly"

For definition of terms defined by H.R.S. Chapter 707, see instructions:

9.00--"serious bodily injury"

9.00--"substantial bodily injury"

For definition of terms defined by H.R.S. Chapter 712, see instruction:

13.57A	UNLAWFUL MANUFACTURING OF A CONCHILD PRESENT-SPECIAL INTERROGATION CAUSES SUBSTANTIAL OR SERIOUS FOR H.R.S. § 712-1240.5(2)	ATORYUNDER AGE 18 AND
under	Did the Prosecution prove beyor any time during the commission the age of eighteen was preser offense occurred?	of the offense a child
	Yes	No
2.	Did the Prosecution prove beyondoubt that the Defendant knew a commission of the offense that the structure where the offense occurred?	at any time during the the child was present in
	Yes	No
3.	Did the Prosecution prove beyondoubt that the Defendant knew a commission of the offense that structure was under the age of eighteen?	at any time during the
	Yes	No
4.	Did the Prosecution prove beyondoubt that the Defendant knowing substantial bodily injury to the committing the offense of manufacture?	ngly caused serious or nat child as a result of
	Yes	No

You must answer each of the questions separately. Your answer to each of these questions must be unanimous.

"Structure" means any house, apartment building, shop,

warehouse, building, vessel, cargo container; motor vehicle, tent, recreational vehicle, trailer; or other enclosed space capable of holding a child and equipment for the manufacture of a controlled substance (designate the controlled substance alleged in the manufacturing charge).

Notes

H.R.S. § 712-1240.5(2).

For definitions of states of mind, see instruction: 6.03--"knowingly"

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- 9.00--"substantial bodily injury"

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